

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

FRANCES YVONNE SWARTZ,)	
)	
Plaintiff,)	
)	
v.)	3:08-cv-151-SEB-WGH
)	
EVANSVILLE VANDERBURGH)	
COUNTY BUILDING AUTHORITY,)	
)	
Defendant.)	

**MAGISTRATE JUDGE'S
REPORT AND RECOMMENDATION**

This matter is before the Honorable William G. Hussmann, Jr., United States Magistrate Judge, on the Show Cause Order entered January 7, 2010. (Docket No. 70).

Findings of Fact

The Magistrate Judge finds the following facts:

1. This case was filed on October 6, 2008. (Docket No. 1).
2. On March 2 and 3, 2009, plaintiff's original counsel withdrew from this case and new counsel entered an appearance. (Docket Nos. 18-19, 21).
3. At a conference held April 24, 2009, plaintiff's counsel advised the court that his client had been out of communication. This resulted in the court moving the settlement conference to June 23, 2009, to attempt to allow plaintiff and plaintiff's counsel to meet and confer. (Docket No. 28).

4. On two occasions thereafter settlement conferences were continued at the request of both parties because discovery had not been completed and because of calendaring issues. (Docket Nos. 30 and 34).

5. On October 29, 2009, a Motion for Order Compelling Discovery was filed in this case. (Docket No. 39). In that motion to compel, it was alleged that interrogatories and requests for production of documents had been served on or before August 11, 2009, and no responses of any sort had been received. On November 2, 2009, an order issued granting the motion to compel discovery. (Docket No. 45).

6. On November 20, 2009, defendant filed a Motion for Order to Show Cause (Docket No. 52) requesting that the court dismiss this case because plaintiff had failed to comply with the prior order to answer interrogatories and because plaintiff had failed to comply in any respect with the Case Management Plan, including failing to file initial disclosures and preliminary witness and exhibit lists.

7. On November 30, 2009, plaintiff's counsel requested an extension of time to file a response to the Motion for Order to Show Cause. (Docket No. 58). This request stated that plaintiff's counsel had been unable to contact or locate the plaintiff "for some time now" and that he intended to seek leave of court to withdraw as attorney for the plaintiff. Plaintiff was granted to January 6, 2010, to file a response to the Motion for Order to Show Cause. (Docket No. 59).

8. The settlement conference set in this matter for December 23, 2009, was converted to a telephonic conference because plaintiff was unable to be located by her counsel. (Docket Nos. 64-65).

9. On December 30, 2009, plaintiff's counsel moved to withdraw his appearance. (Docket No. 68). The Motion for Leave to Withdraw was granted on January 7, 2010. (Docket No. 71).

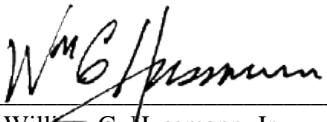
10. A Show Cause Order issued on January 7, 2010. (Docket No. 70). No cause has been shown.

Recommendation

The Magistrate Judge hereby recommends that this case be dismissed for want of prosecution. Any party shall have ten (10) days from the date of service to file written objections to this Report and Recommendation.

SO RECOMMENDED.

Dated: January 29, 2010



William G. Hussmann, Jr.
United States Magistrate Judge
Southern District of Indiana

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